



EPN

500.43597X00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: TANAKA et al

Serial No.: 10/790,212

Filed: March 2, 2004

For: Mask Trimming Apparatus And Mask Trimming Method

Art Unit: 1765

Examiner: E. Chen

RESPONSE

Mail Stop: Response (No Fee)
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 19, 2006

Sir:

The following remarks are respectfully submitted in connection with the above-identified application, in response to the Office Action dated March 24, 2006.

The requirement for election of one of the inventions identified by the Examiner as Invention I - claims 1 - 6, drawn to an apparatus, classified in class 156, subclass 345.1, and Invention II - claims 7 - 9, drawn to a method, classified in class 438, subclass 725, is traversed, and reconsideration and withdrawal of the restriction requirement are respectfully requested.

In setting forth the restriction requirement, the Examiner recognizes that the requirement for restriction requires a showing of distinctness in accordance with the requirements of MPEP §806.05(e), which requires a showing of distinctness in terms of the process as claimed or the apparatus as claimed. The Examiner contends "In this case, the apparatus can be used to etch a variety of materials and is not limited to trimming masks." (emphasis added).

Contrary to the Examiner's contention that the apparatus is not limited to trimming masks, applicants note that independent claim 1 of Invention I recites the features of "trim-treat said mask"; "trimming condition calculating means for calculating a condition required for said trimming treatment to obtain a desired mask with ..." and "the trimming treatment is carried out for the trimming condition calculated ...". Thus, it is readily apparent that the apparatus as claimed is directed to trimming of a mask, and such features are also recited in independent claim 7 of Invention II, such that applicants submit that the recited features of Inventions I and II are coextensive with one another, and the Examiner has failed to show distinctness in accordance with the requirements of MPEP §806.05(e).

Since the Examiner has failed to properly show distinctness in accordance with MPEP §806.05(e), applicants submit that the requirement for restriction should be withdrawn.

In order to provide a complete response to the restriction requirement, applicants provisionally elect, with traverse, Invention I - claims 1 - 6, it being noted that applicants, on February 14, 2006, in response to a telephone restriction requirement from a different Examiner, provisionally elected, with traverse, Invention I - claims 1 - 6.

For the foregoing reasons, withdrawal of the restriction requirement and favorable action with respect to all claims present in this application are respectfully requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 500.43597X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

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